

## § 3212.23

### § 3212.23 How will the production incentive apply to a qualified expansion project?

(a) The production incentive will begin on the first day of the month following the commencement of commercial operation of the qualified expansion project. The incentive will be in effect for up to 48 consecutive months, applicable only to those months in which the actual generation from the facility or facilities affected by the project exceeds the target generation established by BLM. The amount of the production incentive is established in MMS regulations at 30 CFR 218.307.

(b) The production incentive will apply only to the increase in net generation. The increase in generation for any month in which the production incentive is in effect will be determined as follows:

$$\Delta G_i = G_{a,i} - \frac{G_{t,i}}{1.1}$$

where:

$i$  is a month for which a production incentive is in effect;

$\Delta G_i$  is the increase in generation for month  $i$  to which the production incentive applies;

$G_{a,i}$  is the actual generation in month  $i$ ;

$G_{t,i}$  is the target generation in month  $i$ , as provided in § 3212.19(b).

### § 3212.24 How will the production incentive apply to a new facility?

(a) If BLM determines that your project qualifies as a new facility, the production incentive will begin on the first day of the month following the commencement of commercial operations at that facility, and will be in effect for 48 consecutive months. The incentive applies to the entire commercial generation of electricity from the new facility.

(b) The amount of the production incentive is established in MMS regulations at 30 CFR 218.307.

### § 3212.25 Can I convert the royalty rate terms of my lease in effect before August 8, 2005, to the terms of the Geothermal Steam Act, as amended by the Energy Policy Act of 2005?

(a) If a lease was in effect before August 8, 2005, the lessee may submit to

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BLM a request to modify the royalty rate terms of your lease to the applicable royalty rate or direct use fee terms prescribed in the Geothermal Steam Act as amended by the Energy Policy Act of 2005. You may withdraw your request before it is granted, but once you accept the new terms, you may not revert to the earlier royalty rates. If your request to modify is granted, the new royalty rate or direct use fees will apply to all geothermal resources produced from your lease for as long as your lease remains in effect. A modification under this section does not affect the royalty rate for byproducts.

(b)(1) The royalty rate for leases whose terms are modified and production from which is used for commercial generation of electricity is prescribed in § 3211.17(b).

(2) The direct use fees or royalty rate for leases whose terms are modified and production from which is used directly for purposes other than commercial generation of electricity is prescribed in § 3211.18(a) of this part and MMS regulations at 30 CFR 206.356.

### § 3212.26 How do I submit a request to modify the royalty rate terms of my lease to the applicable terms prescribed in the Energy Policy Act of 2005?

(a) You must submit a written request to BLM that contains the serial numbers of the leases whose terms you wish to modify and:

(1) For direct use operations, any other information that BLM may require; or

(2) For commercial electrical generation operations, for each month during the 10-year period preceding the date of your request (or from when electrical generation operations began if less than 10 years before the date of your request):

(i) The gross proceeds received by you or your affiliate from the sale of electricity;

(ii) The amount of royalty paid;

(iii) The amount of generating and transmission deductions subtracted from the gross proceeds to derive the royalty value if you are using the geothermal netback procedure under MMS regulations to calculate royalty value; and

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(iv) Any other information that BLM may require.

(b) BLM must receive your request no later than:

(1) For leases whose geothermal resource production is used directly for purposes other than commercial generation of electricity, 18 months after the effective date of the schedule of fees established by MMS under 30 CFR 206.356(b); or

(2) For leases whose geothermal resource production is used for commercial generation of electricity, December 1, 2008.

### **§ 3212.27 How will BLM or MMS review my request to modify the lease royalty rate terms?**

After you submit your request to modify the royalty rate terms under § 3212.25, BLM will:

(a) Review your application, and if BLM determines that:

(1) Your application is complete and contains all necessary information, we will notify you of the date on which your complete request was received; or

(2) Your request is not complete or does not contain all necessary information, we will notify you of the additional information that is required;

(b) Analyze the data you submitted to establish a royalty rate if the geothermal resources are used for commercial electrical generation;

(c) Consult with MMS and any state or local governments that may be affected by the change in royalty rate terms; and

(d)(1) No later than 140 days after the day on which we determine a complete request with all necessary information was received, BLM will send you written notification of the proposed royalty rate that BLM determines to be revenue neutral.

(2) If you reject the proposed rate, we must receive written notification from you no later than 30 days after the date of your receipt of our notification. BLM will accept a faxed notification received within the 30-day time limit. However, following the fax, you must submit to BLM written notification which BLM must receive no later than the 179th day following the day on which BLM determines we received your complete request.

(3) If you reject the proposed royalty rate on a timely basis:

(i) BLM will not issue a decision modifying the royalty rate terms of your lease;

(ii) The existing royalty rate terms in your lease continue to apply; and

(iii) You may not reapply for a royalty rate term conversion under § 3212.25.

(4) Unless timely written notification is received from you rejecting the proposed rate, BLM will issue a decision modifying the royalty rate terms of your lease no later than 180 days after the day on which we determine a complete request was received. The effective date of the new royalty rate is the first day of the month following the date on which the decision was issued. For example, a decision issued on July 21, will become effective on August 1.

## **Subpart 3213—Relinquishment, Termination, and Cancellation**

### **§ 3213.10 Who may relinquish a lease?**

Only the record title owner may relinquish a lease in full or in part. If there is more than one record title owner for a lease, all record title owners must sign the relinquishment.

### **§ 3213.11 What must I do to relinquish a lease?**

Send BLM a written request that includes the serial number of each lease you are relinquishing. If you are relinquishing the entire lease, no legal description of the land is required. If you are relinquishing part of the lease, you must describe the lands to be relinquished. BLM may require additional information if necessary.

### **§ 3213.12 May BLM accept a partial relinquishment if it will reduce my lease to less than 640 acres?**

Except for direct use leases, lands remaining in your lease must contain at least 640 acres, or all of your leased lands must be in one section, whichever is less. Otherwise, we will not accept your partial relinquishment. BLM will only allow an exception if it will further development of the resource. The size of direct use leases is addressed in § 3205.07.